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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/600,969	06/20/2003	Aleksander Hurwic	825-02-597	6558

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EXAMINER

HANAN, DEVIN J

ART UNIT PAPER NUMBER

3745

DATE MAILED: 10/20/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/600,969	<b>Applicant(s)</b> HURWIC, ALEKSANDER	
	<b>Examiner</b> Devin Hanan	<b>Art Unit</b> 3745	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-12 is/are pending in the application.  
     4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,2,4-7,11 and 12 is/are rejected.
- 7) ☒ Claim(s) 3 and 8-10 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 6/20/2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
     a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |  |
|---|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)            |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date ____ | 6) <input type="checkbox"/> Other: ____  |

## DETAILED ACTION

### *Drawings*

The subject matter of this application admits of illustration by a drawing to facilitate understanding of the invention. Applicant is required to furnish a drawing under 37 CFR 1.81. No new matter may be introduced in the required drawing. The specification makes reference to Figure 3; however there is no Figure 3 in the drawings. The foreign priority document shows a third figure that would be satisfactory.

The drawings are objected to under 37 CFR 1.83(a) because they fail to show the flexible wall which sealingly connects two rigid parts as recited in claims 2 and 3. Any structural detail that is essential for a proper understanding of the disclosed invention should be shown in the drawing. MPEP § 608.02(d). Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. The

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replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description: 68, a flexible wall, 62 an upper part, and 52 a lower part. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

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(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 4 - 7 and 11 are rejected under 35 U.S.C. 102b) as being anticipated by Schubert (U.S. Patent 3,233,411).

Regarding claim 1, Schubert discloses, in Figure 5, a brake fluid reservoir, at least part of this reservoir containing brake fluid, characterized in that this part is sealed with respect to the atmosphere and comprises at least one impervious and flexible wall (49) allowing its capacity to be adjusted to the volume of brake fluid and/or air it contains, so as to avoid placing the reservoir in depression when the volume of brake fluid in the reservoir drops.

Regarding claim 4, Schubert discloses said flexible wall (49) forms an upper part of the reservoir and, the lower part (56) of which is rigid.

Regarding claim 5, Schubert discloses said flexible wall (49) forms a pouch (49) containing brake fluid inside the reservoir.

Regarding claim 6, Schubert discloses said pouch comprises at the lower part, fluid outlet means (53) sealingly connected to a second reservoir (43) placed at a level below that of the first mentioned reservoir (49) and comprising means (45) of connection to a braking circuit (39).

Regarding claim 7, Schubert discloses that said outlet means (53) of the pouch (49) are initially closed by a sealed membrane (column 3 line 53-54) and in that the means of connection to the second reservoir (43) comprise means (48) of puncturing this membrane (column 3 line 38-39).

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Regarding claim 11, Schubert discloses a flexible wall (49) with at least one transparent window for visually checking its contents (column 2 lines 1-3).

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 2 is rejected under 35 U.S.C. 103(e) as being unpatentable over Schubert as applied to claim 1 above, and further in view of Rammhofer et al. (U.S. patent 6,434,935).

Schubert as applied to claim 1 above teaches all of the claimed elements with the exception that it does not teach of the flexible wall sealingly connecting two rigid parts of the reservoir that are mounted so as to be able to move one relative to the other.

However, Rammhofer et al. does teach of a flexible wall (3) where the flexible wall connects two rigid parts (4, 1a). The two rigid parts are mounted so to be able to move one relative to another (column 3 line 28-29).

It would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify the Figure 5 embodiment of Schubert in view of

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Rammhofer to include a flexible wall to connect two rigid parts in order to properly encase the reservoir while also maintaining the reservoir at atmospheric pressure.

Claim 12 is rejected under 35 U.S.C. 103(e) as being unpatentable over Schubert as applied to claim 1 above, and further in view of Bierlein et al. (U.S. patent 3,937,020) and Stiward et al. (U.S. patent 3,520,136).

Schubert as applied to claim 1 above teaches all of the claimed elements with the exception that it does not teach of a safety valve and a level detector that are mounted in the brake fluid filled part of the reservoir.

Bierlein teaches of level detector (66). Bierlein discusses the function of the level detector in column 2, line 53.

Additionally, Stiward et al. teaches of a safety valve (52). Stiward et al. discusses the safety valve in column 1, lines 13-15.

It would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify the Figure 5 embodiment of Schubert in view of Bierlein and Stiward et al. to include a safety valve and a level detector to ensure the sealed pouch is maintained at atmospheric pressure and to alert the driver of low brake fluid conditions, respectively.

#### ***Allowable Subject Matter***

Claims 3 and 8-10 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

**Conclusion**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Devin Hanan whose telephone number is 301-305-0863. The examiner can normally be reached Monday thru Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Edward Look can be reached on 703-308-1044. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



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12/18/04